

11 PACIFIC COAST FEDERATION OF
12 FISHERMEN'S ASSOCIATIONS, et al.,

13 Plaintiffs,

14 v.

15 WILBUR ROSS, et al.,

16 Defendants.

11 Case No. 19-cv-07897-LB

12 **ORDER GRANTING MOTION TO
13 INTERVENE**

14 Re: ECF No. 17

17 **INTRODUCTION**

18 The plaintiffs, a group of environmental organizations, sued the National Marine Fisheries
19 Service, the Fish and Wildlife Service, and their officials (collectively, the “federal defendants”),
20 challenging the agencies’ adoption of biological opinions regarding the effects of two water
21 projects on endangered species.¹ The two water projects at issue are the Central Valley Project and

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¹ Compl. – ECF No. 1 at 1 (¶ 1). The plaintiffs are six environmental organizations: (1) Pacific Coast
24 Federation of Fishermen’s Associations; (2) Institute for Fisheries Resources; (3) Golden State Salmon
25 Association; (4) Natural Resources Defense Council, Inc.; (5) Defenders of Wildlife; (6) Bay.Org d/b/a
26 The Bay Institute. *Id.* at 5–10 (¶ 14–20). The named individual defendants are Secretary of Commerce
Wilbur Ross, Assistant Administrator for Fisheries Chris Oliver, Secretary of Interior David
Bernhardt, and Acting Director of the Fish and Wildlife Service Margaret Everson.

27 Citations refer to material in the Electronic Case File (“ECF”); pinpoint citations are to the ECF-
28 generated page numbers at the top of documents.

1 the State Water Project.² They divert water from rivers and bays in Northern California to other
2 parts of the state.³ The plaintiffs allege that the water projects contribute to the decline of various
3 endangered fish species.⁴ In January 2019, the federal Bureau of Reclamation, which operates the
4 water projects, proposed a new plan to increase the projects' water diversions.⁵ The federal
5 defendants concluded, based on the biological opinions, that the proposed plan would not
6 jeopardize endangered fish species.⁶ The plaintiffs then sued to (1) seek declaratory relief finding
7 that the biological opinions are arbitrary and capricious, and (2) enjoin federal defendants from
8 acting in reliance of the opinions.⁷

9 The San Luis & Delta-Mendota Water Authority ("SLDMWA") and Westlands Water District
10 ("Westlands") moved to intervene as defendants.⁸ The SLDMWA consists of 28 member
11 agencies, including Westlands, that supply water from the Central Valley Project for farms,
12 communities, and wildlife.⁹ The Intervenors moved to intervene either as a matter of right or
13 permissively. Plaintiffs opposed the motion to intervene as of right, but conceded that the
14 intervenors have met the requirements to intervene permissively. The court grants permissive
15 intervention.

16 ANALYSIS

17 "On timely motion, the court may permit anyone to intervene who . . . has a claim or defense
18 that shares with the main action a common question of law or fact." Fed. R. Civ. P. 24(b)(1)(B).
19 An applicant requesting permissive intervention "must prove that it meets three threshold
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22 ² *Id.* at 2 (¶ 2).

23 ³ *Id.*

24 ⁴ *Id.* at 2 (¶ 3).

25 ⁵ *Id.* at 2–3 (¶¶ 2, 5).

26 ⁶ *Id.* at 5 (¶¶ 9–13)

27 ⁷ *Id.* at 47.

28 ⁸ Motion to Intervene – ECF No. 17 at 3.

⁹ *Id.* at 9.

1 requirements: (1) it shares a common question of law or fact with the main action; (2) its motion is
2 timely; and (3) the court has an independent basis for jurisdiction over the applicant's claims.”
3 *Donnelly v. Glickman*, 159 F.3d 405, 412 (9th Cir. 1998) (citing *Nw. Forest Resource Council v.*
4 *Glickman*, 82 F.3d 825, 839 (9th Cir. 1996)). “Even if an applicant satisfies those threshold
5 requirements, the district court has discretion to deny permissive intervention.” *Id.*

6 Plaintiffs do not dispute that the intervenors can intervene permissively.¹⁰ Plaintiffs ask only
7 that the court limit intervenor filings to those that are not duplicative of filings by the federal
8 defendants.¹¹ The court does not impose those restrictions at this time. Instead, the court will
9 address case-management issues when they arise.

10 Accordingly, the court grants the intervenors permissive intervention.

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12 **CONCLUSION**

13 This disposes of ECF No. 17.

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15 **IT IS SO ORDERED.**

16 Dated: January 27, 2020



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18 LAUREL BEELER
United States Magistrate Judge

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¹⁰ Opp'n – ECF No. 29 at 12.

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¹¹ *Id.* at 13.